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### Remarks

Claims 1 – 6, 13, 14 and 16 – 22 are pending in the application.

Claims 13 and 17 are objected to for informalities.

Claims 2 – 5, 13, and 16 are rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1 – 6, 13 – 14, and 16 are rejected under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention.

Claims 1 – 2, 14, 17 – 18 are rejected under 35 U.S.C. §102(e) as being anticipated by Natarajan et al., U.S. Patent No. 7,293,106 (hereinafter “Natarajan”).

Claims 3 – 6 and 19 – 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Natarajan in view of Bertin et al., U.S. Patent No. 6,400,681 (hereinafter “Bertin”).

Claims 13 and 16 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. §112, ¶2, and the rejections under 35 U.S.C. §101 set forth in the Action.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or are simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., simply to avoid the prior art in a way that leaves the claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

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Also, because a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting, no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

#### **Amendments**

Applicant has amended claims 1, 3, 6, 13, 14, and 16 – 22 and added new claims 23 – 28. No new matter has been added. Further, with respect to new claims 23 – 28, the subject matter of these claims is supported by the original specification, for example, by the original set of claims that includes a series of claims reciting a computer readable medium. Furthermore, Applicant respectfully reminds the Examiner that in the Applicant's response filed on October 15, 2007 Applicant has filed amendments to the Specification, which provide further description of the embodiments of these new claims.

#### **Claim Objections**

Claims 13 and 17 are objected to for informalities. Applicant has amended the claims as suggested by the Examiner. Accordingly, the Examiner is respectfully requested to withdraw the objection.

#### **Rejection Under 35 U.S.C. §112**

Claims 2 – 5, 13, and 16 are rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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Regarding claims 2 – 5 and 13, Applicant has amended the claims to address the issues raised by the Examiner. Therefore, Applicant believes that claims 2 – 5 and 13 are in compliance with the requirements of 35 U.S.C. §112, ¶2.

Regarding claim 16, though the Examiner has indicated that claim 16 has been rejected, no rationale was provided to support the rejection. If the Examiner were to maintain the §112 rejection of claim 16, Applicant respectfully requests the Examiner to state support for such a rejection.

For at least the above discussed reasons, the Examiner is respectfully requested to withdraw the rejection.

#### **Rejection Under 35 U.S.C. §101**

##### **Claims 1 – 6, 13 – 14, and 16**

Claims 1 – 6, 13 – 14, and 16 are rejected under 35 U.S.C. §101 as not falling within one of the four statutory categories of invention.

Applicant has amended independent claims 1 and 13 to recite:

A network element management system (EMS) including processing equipment adapted to perform a method of analyzing a plurality of network elements configured to support at least one established communication path in a network, the method comprising:

(emphasis added). Thus, independent claims 1 and 13 recite a particular apparatus, i.e., EMS including processing equipment. Therefore, Applicant believes that claims 1 and 13 satisfy the §101 requirement. Claims 2 – 5, 14 and 16 depend from claims 1 and 13, and thus, include all of the elements of the independent claims. Therefore, claims 2 – 5, 14 and 16 also satisfy the requirements of 35 U.S.C. §101.

Accordingly, the Examiner is respectfully requested to withdraw the rejection.

#### **Rejection Under 35 U.S.C. §102**

##### **Claims 1 – 2, 14, and 17 – 18**

Claims 1 – 2, 14, and 17 – 18 are rejected under 35 U.S.C. §102(e) as being anticipated by Natarajan. The rejection is traversed.

Anticipation requires the presence in a single prior art disclosure of each and every element of the claim, arranged as in the claim. Natarajan fails to disclose each and

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every element of the independent claim 1, as arranged in independent claim 1. More specifically, Natarajan does not teach or suggest at least:

“receiving a notification signal, the notification signal indicative that a new communication path has been established in the network;  
in response to receiving of the notification signal, querying a network element in the network for local network information,”

as recited in independent claim 1 (emphasis added).

The Examiner's arguments with respect to former claim 2, though they do not address these particular features, might suggest that, according to the Examiner's interpretation of Natarajan, the above-recited receiving step is disclosed by Figs. 1 and 2 of Natarajan, and by steps 100 and 200 in particular (see Office Action, page 8). Applicant respectfully submits that such an interpretation would be improper.

Step 100 of Fig. 1 and step 200 of FIG. 2 describe requesting for electronic representations of nodes in a path between a start node and an end node. However, Natarajan fails to disclose that such a request is related to a new communication path being established in the network. Indeed, the only description regarding such a request that is provided by Natarajan is that the request may be made by a user or by software (see col. 2, lines 14 – 16; col. 3, lines 12 – 14). However, Natarajan is silent regarding reasons for initiating such a request, other than a desire to find a path, and thus, fails to disclose the above highlighted features of Applicant's claim 1.

Further, Natarajan states that such a path can be considered active because “information is obtained from at least some of the nodes in request” (col. 2, lines 16 – 18). This suggests, that at the point in time when the request is made, at most, an assumption is made that there are some active nodes in the network. Assuming that active nodes are present in the network is entirely different from receiving a notification signal that a new communication path has been established in the network. Because Natarajan fails to teach or suggest the latter, claim 1 is not anticipated by Natarajan, and thus, Applicant's independent claim 1 is allowable under 35 U.S.C. §102(e) over Natarajan.

Independent claim 17 recites limitations similar to those recited in independent claim 1 and discussed above. Therefore, independent claim 17 is allowable under 35 U.S.C. under 35 U.S.C. §102(e) over Natarajan. Furthermore, because all of the dependent claims depending from the independent claims include all the limitations of

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the respective independent claim from which they ultimately depend, each such dependent claim also is allowable under 35 U.S.C. §102(e) over Natarajan.

The Examiner is respectfully requested to withdraw the rejection.

### **Rejection Under 35 U.S.C. §103**

#### **Claims 3 – 6 and 19 – 22**

Claims 3 – 6, 19 – 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Natarajan in view of Bertin. The rejection is traversed.

This ground of rejection applies only to dependent claims and is predicated on the validity of the rejection under 35 U.S.C. §102 given Natarajan. Because the rejection under 35 U.S.C. §102 given Natarajan has been overcome, as described hereinabove, and there is no argument put forth by the Office Action that Bertin supplies that which is missing from Natarajan to render the independent claims anticipated, these grounds of rejection cannot be maintained.

The Examiner is respectfully requested to withdraw the rejection.

### **Allowable Subject Matter**

#### **Claims 13 and 16**

Claims 13 and 16 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, ¶2, and the rejections under 35 U.S.C. 101 set forth in the Action.

For the reasons set forth above, Applicant submits that claims 13 and 16 are allowable under 35 U.S.C. §112 and §101. Therefore, Applicant respectfully requests that claims 13 and 16 be allowed.

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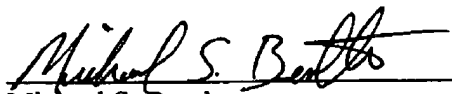
**Conclusion**

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 842-8110 x 120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

Dated: 6/18/09



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